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March 2, 2007

**BY E-FILING**

The Honorable Joseph J. Farnan, Jr.  
United States District Court  
for the District of Delaware  
844 North King Street  
Wilmington, DE 19801

Re: Affymetrix, Inc. v. Illumina Inc., C.A. No. 04-CV-901 JJF

Dear Judge Farnan:

As discussed during today's hearing, enclosed are the "RoyaltySource" documents that are the subject of Illumina's Motion *in Limine* No. 5. (Letter Exhibit 1).

For the Court's information, I also enclose two pages that describe the RoyaltySource service. These documents, which come from the RoyaltySource service itself, explain that RoyaltySource is a public database of information about royalty rates in various industries. Dr. Lynde, Affymetrix's expert, will testify at trial (as he did in his deposition) that RoyaltySource information "can be used appropriately and with appropriate care to provide some information as to the reasonable royalty negotiation." 2/2/2007 Lynde Dep. at 10 – 12 (attached as Exhibit B to Affymetrix's Opposition to Illumina's Motion *in Limine* No. 5.)

Affymetrix maintains that it is appropriate under Rule 703 for Dr. Lynde, an expert, to rely on information used by experts in his field to arrive at an understanding of a reasonable royalty rate in this matter. RoyaltySource is one such source of information. Affymetrix will not seek to admit the RoyaltySource documents themselves nor will it publish them to the jury.

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I also note (as Affymetrix pointed out in its Opposition to Illumina's motion) that Affymetrix did in fact produce all RoyaltySource considered by Dr. Lynde to Illumina during the course of expert discovery.

Respectfully,



Maryellen Noreika

MN/dlb

Enclosure

cc: Dr. Peter T. Dalleo, Clerk (By electronic filing; w/ encl.)  
Richard K. Herrmann, Esquire (By Hand and electronic filing; w/ encl.)  
Marcus E. Sernel, Esquire (By email; w/ encl.)